

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

David Douglas Harsey,)	
)	
Plaintiff,)	
)	C/A No.: 3:13-cv-2036-TLW
vs.)	
)	
Cpl. Robert Marzol, Sgt. P. Dufault, Officer)	
Watkins and Officer Antley,)	
)	
Defendants.)	
_____)	

ORDER

Plaintiff David Douglas Harsey filed this action on July 24, 2013, alleging violation of his constitutional rights pursuant to 42 U.S.C. § 1983. (ECF No. 1). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on May 29, 2015, by Magistrate Judge Paige J. Gossett (ECF No. 42), to whom this case was previously assigned. In the Report, the Magistrate Judge recommends that the Court grant the Defendants’ motion for summary judgment. (ECF No. 36). Plaintiff filed objections to the Report on June 11, 2015. (ECF No. 43). This matter is now ripe for disposition.

The Court has reviewed the Report and the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's

review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the Objections. After careful review of the Report and Objections thereto, the Court hereby **ACCEPTS** the Report. (ECF No. 42). The Plaintiff's Objections (ECF No. 43) are **OVERRULED**. In his objections, the Plaintiff argues that he was not in public at the time of his arrest for disorderly conduct. However, the Plaintiff himself indicates that he shouted profanity at the Defendants from his house while the Defendants were standing in the street. (Doc. #36-3 at 35). In light of the record, the Court finds that the Defendants reasonably believed that probable cause existed to arrest the Plaintiff for violation of § 28-83 of the Cayce, South Carolina Code of Ordinances. For the reasons stated in the Report, the Defendants' motion for summary judgment (ECF No. 36) is **GRANTED**.

IT IS SO ORDERED.

July 9, 2015
Columbia, South Carolina

s/Terry L. Wooten
Chief United States District Judge